

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2007-283-C - ORDER NO. 2007-905  
DECEMBER 18, 2007

IN RE: Application of Norstar Telecommunications, LLC for Authority to Operate as a Reseller of Interexchange Telecommunication Services and for Alternative Regulation within the State of South Carolina	)	ORDER GRANTING CERTIFICATE AND APPROVING MODIFIED ALTERNATIVE REGULATION
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This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Norstar Telecommunications, LLC (“Norstar” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2006) and the rules and regulations of the Commission. By its Application, Norstar also requests alternative regulation of its business interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Docketing Department instructed Norstar to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Norstar and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Norstar complied with this instruction and

provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

Subsequently, Norstar and ORS filed a Settlement Agreement attached hereto as Order Exhibit 1. A hearing was convened on November 19, 2007, at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before David Butler, Hearing Examiner. Norstar was represented by Scott Elliott, Esquire. The Office of Regulatory Staff (“ORS”) was represented by Shealy Boland Reibold, Esquire, and Florence P. Belser, Esquire.

Shaun Naghdi, President of the Company, testified in support of the Company’s Application. The record reveals that Norstar is a limited liability company organized under the laws of the State of Virginia, which is registered to transact business in South Carolina. According to Mr. Naghdi, the Company seeks authority as a reseller of interexchange services. Mr. Naghdi explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. The Company intends to market interexchange services. Mr. Naghdi also discussed Norstar’s technical, financial, and managerial resources to provide the services for which it seeks authority.

With regard to technical, financial, and managerial capabilities, the Company’s Application and Mr. Naghdi’s testimony both evidence that Norstar’s management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Naghdi also testified that Norstar will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Mr.

Naghdi offered that approval of Norstar's Application would serve the public interest.

Mr. Naghdi, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in another state. Further, the Company requests an exemption from 26 S.C. Code Ann. Regs. 103-612.2.3 (requirement to furnish maps) and 103-631 (requirement to publish a directory).

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Norstar is organized under the laws of the State of Virginia as a limited liability company, and is authorized to do business in South Carolina by the Secretary of State.
2. Norstar desires to operate as a provider of resold interexchange services in South Carolina.
3. We find that Norstar possesses the managerial, technical, and financial experience and capability to operate as a provider, through resale, of interexchange services in South Carolina.
4. We find that the issuance of a Certificate of Public Convenience and Necessity to Norstar to operate as a reseller of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

5. Norstar requests a waiver of 26 S.C. Code Ann. Regs. 103-610, 103-612.2.3, and 103-631. The Commission finds Norstar's requested waivers reasonable and understands the potential difficulty presented to Norstar should the waivers not be granted.

6. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that Norstar possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Norstar and as set forth in its Application and Mr. Naghdi's testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Norstar to provide resold intrastate interexchange telecommunications services.

4. The Commission adopts a rate design for Norstar for its residential interexchange services, if any, which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re:*

*Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Norstar shall not adjust its residential interexchange rates for end-users, if any, below the approved maximum level without notice to the Commission and to the public. Norstar shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2006).

6. The Commission concludes that Norstar's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to

those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

7. We conclude that Norstar’s request for waiver of 26 S.C. Code Ann. Regs. 103-610, 103-612.2.3 and 103-631 should be granted as strict compliance with the regulations would potentially cause undue hardship on that Company. The waivers are not contrary to the public interest.

8. The Settlement Agreement between the Company and ORS should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Norstar to provide intrastate interexchange services through the resale of services authorized for resale by tariffs of carriers approved by the Commission within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Norstar shall file its revised tariff. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Norstar-ORS Settlement Agreement.

4. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Norstar shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Norstar changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Norstar shall comply with the terms of Order No. 93-462, Order Approving

Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Norstar shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. In addition to the financial filings required supra, Norstar shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Norstar shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."



Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Norstar shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Norstar requested a waiver of 26 Code Ann. Regs. 103-610, 103-612.2.3 and 103-631 (Supp. 2006). The Commission finds Norstar’s requested

waivers reasonable and understands the potential difficulty presented to Norstar should the waivers not be granted. The Commission therefore grants the requested waivers. However, Norstar shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Norstar shall promptly notify the Commission and ORS if the location of its books and records changes.

12. The Settlement Agreement between Norstar and ORS is hereby approved.

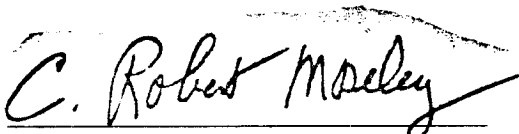
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2007-283-C**

<b>In Re:</b>	)	
<b>Application of Norstar</b>	)	
<b>Telecommunications, LLC for Authority</b>	)	
<b>to Operate as a Reseller of</b>	)	<b>SETTLEMENT AGREEMENT</b>
<b>Interexchange Telecommunication</b>	)	
<b>Services and for Alternative Regulation</b>	)	
<b>Within the State of South Carolina</b>	)	

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Norstar Telecommunications, LLC (“Norstar” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on August 1, 2007, Norstar filed its Application requesting a Certificate of Public Convenience and Necessity to operate as a reseller of interexchange telecommunications services within the State of South Carolina and for Alternative Regulations for its business service offerings and all calling card services offerings within the State.

WHEREAS, on August 14, 2007, the Public Service Commission of South Carolina (“the Commission”) appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS, on August 27, 2007, Norstar pre-filed the direct testimony of Shaun Naghdi with the Commission;

WHEREAS, the Commission scheduled this matter to be heard before Hearing Examiner David Butler on November 19, 2007 at 10:00 am;

WHEREAS, the purpose of this proceeding is to review the application filed by Norstar and its request for a Certificate of Public Convenience and Necessity to provide resold intrastate interexchange communications services and for alternative regulation for its business service offerings in South Carolina;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by Norstar and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by Norstar;

WHEREAS, as a result of its investigations, ORS has determined a) Norstar intends to offer telecommunications services such as "1 +" dialing, toll-free inbound service, travel card service, and directory assistance services; b) the officers of Norstar possess sufficient technical and managerial abilities to adequately provide the services applied for; c) based upon the information provided and the analysis performed, Norstar appears to have access to sufficient financial resources necessary to provide the services proposed in its application; d) Norstar's proposed tariffs comply with Commission statutes and regulations; e) the services provided by Norstar will meet the service standards required by the Commission; f) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; g) to the extent it is required to do so by the Commission, Norstar will participate in the

support of universally available telephone service at affordable rates; and h) the provision of interexchange services by Norstar will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree that Norstar's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of Norstar Witness Naghdi without cross-examination by ORS;
- 3) Norstar agrees to provide, and has already submitted, financial data which was provided as Exhibit 5 to its Application and which is incorporated by reference;
- 4) Norstar agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, Norstar agrees to adhere to the Federal Communication Commission rule 47 C.F.R. §§ 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, Norstar shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

- 5) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide access services and resold interexchange telecommunications services within the state of South Carolina;
- 6) ORS does not oppose the Company's request for waivers of 26 S.C. Code Ann. Regs. 103-610, 26 S.C. Code Ann. Regs. 103-612.2.3, and 26 S.C. Code Ann. Regs. 103-631;
- 7) ORS does not oppose the Company's request that all of its telecommunications offerings be regulated as described in its application pursuant to the procedures set out in Commission Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Commission Order No. 2001-997 in Docket No. 2000-407-C;
- 8) Norstar agrees to resell the services of only those interexchange carriers authorized to do business in South Carolina by the Commission. Norstar agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;
- 9) Norstar agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;
- 10) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, interim LEC fund reporting, annual reporting and/or gross receipts reporting. Additionally, the Company agrees to file with the Commission authorized utility representative forms within thirty (30) days of the Commission's order.

- 11) The Company, certificated by this Commission, agrees to maintain its books and records in a manner that would permit ORS to audit the company's reports filed with the Commission and provided to ORS.
- 12) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

- 13) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

- 14) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.
- 15) This Settlement Agreement shall be interpreted according to South Carolina law.
- 16) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.



WE AGREE:

**Representing the Office of Regulatory Staff**

Shealy Boland Reibold

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10/22/07

Date

WE AGREE:

**Representing Norstar Telecommunications, LLC**

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October 18, 2007

Date